

SHARON MABRY,

Plaintiff,

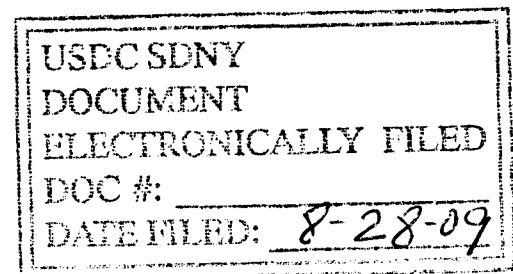
-V-

NEW YORK CITY DEPARTMENT OF :  
CORRECTIONS, CITY OF NEW YORK; HECTOR :  
EUGUI; ELIZABETH HEARD; CHRISTY :  
SANCHEZ; RUTH FIGUEROA; GLEN x  
SYLVESTER; JACQUELINE ANDREWS; STEVEN :  
CONRY; PETER PANAGI; MARY ELLEN :  
GALLAGHER; THOMAS HOLLEY; STEVEN :  
WILSON; FRANCES ROSATO; FRED A HOLMES; :  
VICKIE GUNTHER; SANDRA LANGSTON; JOHN :  
NANCE; C.O. \_\_\_\_ ROBERSON; C.O. \_\_\_\_ :  
LYDIA QUICK; G. BAILEY; DR. MARIA :  
BOUZY; DR. DYER; STATE OF NEW YORK; :  
ELAINE LORD; C. LEMMERMAN; and DR. :  
LORI GOLDSTEIN, :

Defendants.

05 Civ. 8133 (JSR)

ORDER



JED S. RAKOFF, U.S.D.J.

On March 12, 2009, the Honorable James C. Francis IV, United States Magistrate Judge, issued a Report and Recommendation in the above-captioned matter recommending that the Defendants' motions for summary judgment be granted and the complaint dismissed. Subsequently, on March 25, 2009, the Plaintiff submitted objections to the Report and Recommendation. On May 5, 2009, two sets of Defendants (the "City Defendants" and the "State Defendants") filed responses to the Plaintiff's objections. The Plaintiff then filed a reply to the City Defendants (on May 12, 2009) and a reply to the State Defendants (on May 26, 2009). The Court now reviews the motions de novo.

Having reviewed the record, the Court agrees with Magistrate Judge Francis' Report and Recommendation and hereby adopts its reasoning by reference. Judge Francis' analysis turns on the issue of

specific causation, and the fact that the Plaintiff is unable to prove that she contracted hepatitis due to unsanitary conditions and practices either at the Rose M. Singer Center for Women at the Rikers Island Correctional Facility ("Rikers"), which is part of the New York City correctional system, or at the Bedford Hills Correctional Facility ("Bedford"), a New York State prison. As Judge Francis finds, Ms. Mabry's failure to present evidence of specific causation is fatal to all of her claims. She has not offered the opinion of any medical expert or other competent evidence to show that she was likely infected in prison, and, thus, a reasonable jury could not find the City and State Defendants liable for Ms. Mabry's claims. See Report and Recommendation at 18.

The Plaintiff objects that her "certified medical" records were not properly accounted for in deciding this case. See, e.g., Objection at 9. However, as Judge Francis finds, "[E]ven if Ms. Mabry could show she had tested negative for all types of hepatitis upon entry to Rikers or Bedford, there is no competent expert evidence linking her infection to any specific causal factor for which any particular Defendant was responsible." See id. at 17. The Court agrees.

Accordingly, the Court grants Defendants' motions and, with no claims remaining, directs the Clerk of the Court to close the case.

SO ORDERED.

  
JED S. RAKOFF, U.S.D.J.

Dated: New York, New York  
August 27, 2009